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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/785,700	02/16/2001	Robert M. Szabo	6169-156	4280

7590 11/26/2003

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EXAMINER

LASTRA, DANIEL

ART UNIT PAPER NUMBER

3622

DATE MAILED: 11/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/785,700

Applicant(s)

SZABO ET AL.

Examiner

DANIEL LASTRA

Art Unit

3622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 April 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1-24 have been examined. Application 09/785,700 (METHOD AND APPARATUS FOR STIMULATING COMMERCE) has a filing date 02/16/01.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-24 are rejected under 35 U.S.C. 102(e) as being anticipated by Deaton et al (U.S. 6,611,811).

As per claim 1, Deaton teaches:

A method of providing promotional material to consumers comprising:

establishing a computer communications session between a merchant computer system and a remote computer system (see column 127, lines 14-55);

reading consumer purchase information from said merchant computer system, said consumer purchase information comprising consumer identifying information and product information (see column 66, lines 14-35; column 69, lines 13-21; column 69, line 55 – column 70, line 25; column 97, line 55 – column 98, line 7);

based on said consumer purchase information, identifying one or more consumers in need of one or more products (see column 70, lines 4-25; column 90, column 100, line 30 – column 101, line 12; column 118, lines 52-65);

in said remote computer system, associating said promotional material corresponding to said one or more products with said identified consumers (see column 70, lines 4-25; column 90, column 100, line 30 – column 101, line 12; column 118, lines 52-65); and

making said promotional material available to said identified consumers using a promotional material delivery system (see column 70, lines 4-25; column 90, column 100, line 30 – column 101, line 12; column 118, lines 52-65).

As per claim 2, Deaton teaches:

The method of claim 1, said identifying step further comprising determining a product consumption rate from said consumer purchase information to identify said one or more consumers in need of one or more products (see column 70, lines 4-25; column 90, column 100, line 30 – column 101, line 12; column 118, lines 52-65).

As per claim 3, Deaton teaches:

The method of claim 1, wherein said step of reading consumer purchase information is responsive to a merchant request (see column 70, lines 26-46).

As per claim 4, Deaton teaches:

The method of claim 1, wherein said step of reading consumer purchase information is responsive to detecting a business necessity in an inventory management system (see column 70, lines 26-46).

As per claim 5, Deaton teaches:

The method of claim 1, wherein said consumer purchase information is read from a purchase history database (see column 70, lines 4-25).

As per claim 6, Deaton teaches:

The method of claim 1, wherein said one or more products include goods or services or both (see column 70, lines 4-25).

As per claim 7, Deaton teaches:

The method of claim 1, said product information comprising product expiration information and product identifying information (see column 70, lines 4-25; column 90; column 118, lines 52-65).

As per claim 8, Deaton teaches:

The method of claim 1, wherein said promotional material made available to said identified consumers is in electronic format (see column 127, lines 14-55).

As per claim 9, Deaton teaches:

The method of claim 1, wherein said promotional material made available to said identified consumers is in printed format (see column 69, lines 13-21; column 71, lines 1-15).

Claim 10 contains the same limitation as claims 1 and 4 therefore the same rejection is applied.

Claim 11 contains the same limitation as claim 1 therefore the same rejection is applied.

Claim 12 contains the same limitation as claim 1 therefore the same rejection is applied.

Claim 13 contains the same limitation as claim 1 therefore the same rejection is applied.

Claim 14 contains the same limitation as claim 4 therefore the same rejection is applied.

Claim 15 contains the same limitation as claim 1 therefore the same rejection is applied.

Claim 16 contains the same limitation as claim 1 therefore the same rejection is applied.

Claim 17 contains the same limitation as claim 2 therefore the same rejection is applied.

Claim 18 contains the same limitation as claim 3 therefore the same rejection is applied.

Claim 19 contains the same limitation as claim 4 therefore the same rejection is applied.

Claim 20 contains the same limitation as claim 5 therefore the same rejection is applied.

Claim 21 contains the same limitation as claim 6 therefore the same rejection is applied.

Claim 22 contains the same limitation as claim 7 therefore the same rejection is applied.

Claim 23 contains the same limitation as claim 8 therefore the same rejection is applied.

Claim 24 contains the same limitation as claim 9 therefore the same rejection is applied.

Conclusion

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL LASTRA whose telephone number is 703-306-5933. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ERIC W STAMBER can be reached on 703-305-8469. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

D.L.

Daniel Lastra
November 3, 2003

M. Keng

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